

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ALLEN HAYNES,

Plaintiff,

-against-

OUTSTANDING TRANSPORTATION, et al.,

Defendants.
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VITALIANO, D.J.

Pro se plaintiff filed the instant complaint on October 5, 2009. The case was assigned to Magistrate Judge Andrew L. Carter, Jr. for pre-trial proceedings. On October 14, 2010, Judge Carter issued a Report and Recommendation ("R&R") recommending that plaintiff's complaint be dismissed pursuant to Rule 41(b) of the Federal Rules of Civil Procedure for failure to prosecute. Plaintiff did not file an objection to the R&R.

In reviewing the Report and Recommendation of a magistrate judge, a district judge "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). A district judge is required to "make a de novo determination upon the record, or after additional evidence, of any portion of the magistrate judge's disposition to which specific written objection has been made" by any party. Fed. R. Civ. P. 72(b).

Since the complaint was filed, Judge Carter has ordered plaintiff to appear on several occasions for depositions as well as status conferences. On October 4, 2010, Judge Carter issued an order to show cause why the case should not be dismissed for failure to prosecute. While plaintiff signed for the order, he failed to appear or file any documentation in response. Since

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P.M. *[Signature]*
TIME A.M. *[Signature]*

MEMORANDUM & ORDER

09-CV-4382 (ENV)(ALC)

clm

Judge Carter's subsequent R&R was issued, plaintiff has also failed to appear or explain to the Court why this action should not be dismissed.

Accordingly, the Court finds Judge Carter's Report and Recommendation as to the appropriate disposition of this matter to be correct, comprehensive, well-reasoned, and free of any clear error. The Court, therefore, adopts the Report and Recommendation in its entirety as the opinion of the Court. Accordingly, for all the foregoing reasons, the complaint is dismissed with prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure for failure to prosecute.

SO ORDERED.

Dated: Brooklyn, New York
January 6, 2011



ERIC N. VITALIANO
United States District Judge